

Exhibit 129

United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al.

Civil Action No. 07-10248-PBS

Exhibit to the July 24, 2009, Declaration of James J. Fauci
In Support of Plaintiff's Motion for Partial Summary Judgment and
In Opposition to the Roxane Defendants' Motion For Partial Summary Judgment

From: PAOLETTI, LESLI ROXUS <paoletti@boehringer-ingelheim.com>
Sent: Tuesday, December 7, 1999 10:20 AM
To: Rowenhorst,James SLS BIP-US-R <jrowenho@rdg.boehringer-ingelheim.com>
Subject: FW: Florida Medicaid Reimbursement

Hi Jim,

Just wanted to let you know that I received written confirmation from First Data Bank that all Multisource product pricing except AWP has been updated to reflect a \$0.00 price. Multisource product price history is still accessible, as well as current AWP and all branded product pricing. If you have any questions, let me know.

Lesli

-----Original Message-----

From: ROWENHORST,JAMES MK BIPUS
Sent: Tuesday, November 23, 1999 10:18 AM
To: WATERER, JUDY ROXUS
Cc: PAOLETTI, LESLI ROXUS
Subject: RE: Florida Medicaid Reimbursement

Judy,

You are absolutely correct, but this is not a new information. The problem is identified in my original e-mail. I have addressed this with Florida Medicaid and they have set their system to look at the lowest of prices for generics (AWP, WAC, or Direct). The problem appears to be in Roxane's policy because Florida Medicaid is not running into this problem with other manufacturers. It would seem if the price is incorrect, it should be corrected. How do other manufacturers publish their prices in First Data Bank? Is it time to revisit the policy in light of these developments?

Jim

-----Original Message-----

From: WATERER, JUDY ROXUS
Sent: Monday, November 22, 1999 5:04 PM
To: PAOLETTI, LESLI ROXUS; ROWENHORST,JAMES MK BIPUS
Subject: FW: Florida Medicaid Reimbursement
Importance: High

Lesli -

I know that you sent the update to First Data Bank weeks ago, and that you received confirmation of their corrections (which weren't corrected properly by First Data Bank)....

Didn't first Data Bank fix this yet? Do we need to bring in legal? Are they continuing to publish incorrect information despite being informed that their information is incorrect?

Jim -

We're working on getting more details, but I believe you will need to address this with Fla. My understanding is that their computer picks up the last price that was ever in a field - whether it's correct or not. Because Roxane Multisource policy is to publish only AWP, I think FLA. may be picking up a WAC that may be many many years old, and completely invalid. Since we don't publish WAC, it's not getting overwritten. This appears to be the only complaint to date, so I suspect it may be a FLA. problem...

-----Original Message-----

From: ROWENHORST,JAMES MK BIPUS
Sent: Monday, November 22, 1999 4:35 PM
To: WATERER, JUDY ROXUS
Subject: FW: Florida Medicaid Reimbursement

Judy,

Any new news on this issue? I'm still trying to appease this customer, but you can imagine his patience is getting very thin.

Thanks,
Jim

-----Original Message-----

From: ROWENHORST,JAMES MK BIPUS
Sent: Thursday, November 04, 1999 10:04 AM
To: WATERER, JUDY ROXUS
Cc: LEONETTI,MIKE HR BIPUS
Subject: FW: Florida Medicaid Reimbursement

Judy,

I have a pharmacist calling me with two prescriptions for the lorazepam product mentioned below, but because of the data issue he is not receiving the correct reimbursement. I have explained to him that we are working on the problem but it is now over 3 weeks since he notified me and he is getting agitated. I need a status update on this as soon as possible.

Thanks,
Jim

-----Original Message-----

From: ROWENHORST,JAMES MK BIPUS
Sent: Thursday, October 14, 1999 11:39 AM
To: WATERER, JUDY ROXUS
Cc: PAOLETTI, LESLI ROXUS
Subject: Florida Medicaid Reimbursement

Judy,

I spoke with the Florida Medicaid department yesterday regarding the reimbursement issue with lorazepam intensol (00054-3532-54). They changed their method of reimbursement to pharmacists in July 99. Previously, they were reimbursing pharmacists at MAC or an AWP minus calculation depending on status of the drug being a single source versus multisource. Florida Medicaid is now reimbursing the pharmacist the lowest price in the First Data Bank System be it AWP, WAC (WHN), or Direct, plus 7%.

In researching lorazepam intensol, I found the following prices in First Data Bank:

AWP \$1.3407/ml effective 3/16/98
WHN \$0.9070/ml effective 4/3/95
Direct \$0.7423/ml effective 10/18/91

Since their reimbursement system now looks for the lowest price, the direct price is used for the

calculation. I spoke with Leslie Paoletti regarding this issue and asked her to follow up on all Roxanne NDCs to validate that the most current prices are entered into First Data Bank and that old WHN and Direct prices are removed or updated. I would also ask that the changes in first Data Bank be made retroactive to ensure the previous claims are calculated at the appropriate rate, in the event pharmacists have outstanding claims that have not been paid.

Please let me know if you have any questions.

Regards,
Jim Rowenhorst
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Fax: (203)791-6189
jrowenho@rdg.boehringer-ingelheim.com